

Advisory Action
Before the Filing of an Appeal Brief

Application No.

10/658,483

Applicant(s)

KIM ET AL.

Examiner

BRANDON J. MILLER

Art Unit

2617

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 06 April 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: NONE.
Claim(s) objected to: NONE.
Claim(s) rejected: 1-18, 20-24 and 28.
Claim(s) withdrawn from consideration: NONE.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s) _____.
13. ☒ Other: See Continuation Sheet.

/George Eng/
Supervisory Patent Examiner, Art Unit 2617

/Brandon J Miller/
Examiner, Art Unit 2617

Continuation of 11, does NOT place the application in condition for allowance because: Regarding claims 1,9,16,18, 20, and 22 the combination of Chen and Leung teach a device as claimed. Regarding claim 28 the combination of Chen, Leung, and Alao teach a device as claimed.

Regarding claims 1 and 28 applicant has argued that neither Chen or Leung teach transmitting high-speed data according to the interactive broadcast/multicast service transmitted from a server. However, it is clear that Chen teaches transmitting data from a network element according to an interactive data service (see Chen, paragraphs [0048] - [0051] & [0055]). Leung is being combined with Chen to show that the data service can be an high-speed transmission from a server to a network element (see Leung, paragraphs [0052] & [0110]-[0111]). Applicant has not provided any reasoning as to why Leung does not teach an interactive broadcast/multicast service as claimed.

Regarding claims 18, 20, and 22 applicant has argued that Chen and Leung do not teach upon receiving a service request from at least one mobile station, setting up, by the base station, a connection to at least one of the mobile stations and opening a session for the requested service between a base station and a server. However, Chen teaches upon receiving a channel request (service request) from a mobile station (see Chen, page 4, paragraph [0049]), assigning an access channel (connection set up), by the base station (network element), to at least one of the mobiles stations (see Chen, page 5, paragraph [0049]). Lueng is being combined with Chen to show that a request for service can be a request for high-speed data transmission service requiring a communication session between a server and network element (see Leung, paragraphs [0052] & [0110] - [0111] and Figure 5).

Regarding claims 9 and 16 applicant has argued that Leung does not teach comparing a number of mobile stations with a predetermined threshold, which is used to determine a forward channel by a server. However, Leung clearly teaches comparing a number of mobile stations with a threshold to determine a forward channel as claimed (see Leung, paragraph [0009]). .

Continuation of 13. Other: Interview Summary (PTOL-413)

Notice of Non-Compliant Amendment (PTOL-324) attached to previous Advisory Action dated 04/17/2009.